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To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12 (legislative day, MAY 2), 1994

Mr. BREAU (for himself and Mr. PACKWOOD) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telecommunications
5 Services Enhancement Act of 1994”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) competition in telecommunications and
9 cable services will encourage infrastructure develop-

1 ment, have beneficial effects on the price, universal
2 availability, variety and quality of telecommuni-
3 cations services, and improve our economy, our cul-
4 ture, and our political system;

5 (2) all telecommunications and information
6 services markets should be open to competition and
7 all providers of telecommunications services should
8 be able to provide such services and be subject to
9 equivalent regulation when offering such services;

10 (3) all providers of telecommunications and in-
11 formation services should be subject to equivalent
12 regulation;

13 (4) if all providers of telecommunications serv-
14 ices do not have the opportunity to provide all tele-
15 communications and information services, it would
16 not be in the public interest to remove barriers to
17 entry to intrastate telecommunications services such
18 as telephone exchange service, intrastate intraLATA
19 telecommunications services, and telephone exchange
20 access services;

21 (5) when barriers to entry to intrastate tele-
22 communications services such as telephone exchange
23 service, intrastate intraLATA toll telecommuni-
24 cations services, and exchange access services are re-
25 moved, all restrictions on the lines of business in

1 which they may engage should be eliminated for ex-
2 isting providers of these services;

3 (6) the elimination of the restraints on the lines
4 of business will result in the creation of a substan-
5 tial number of new jobs;

6 (7) if the removal of the restrictions on the
7 lines of business are delayed, the job creation result-
8 ing from the removal of these constraints will also
9 be delayed;

10 (8) advanced telecommunications services can
11 enhance the quality of life and promote economic de-
12 velopment, job creation, and international competi-
13 tiveness;

14 (9) advancements in the nation's telecommuni-
15 cations infrastructure will enhance the public welfare
16 by helping to speed the delivery of services such as
17 telemedicine, distance learning, remote medical serv-
18 ices, and distribution of health information;

19 (10) services such as telemedicine will promote
20 the provision of health care to all Americans and re-
21 duce the cost of providing health care;

22 (11) improvements in the telecommunications
23 infrastructure will be greatly enhanced if all provid-
24 ers of telecommunications services are permitted to

1 offer these services on the same basis and subject to
2 equivalent regulatory requirements;

3 (12) rural and sparsely populated areas will not
4 receive the benefits of advanced telecommunications
5 services unless all providers of telecommunications
6 services have eliminated the restrictions on the lines
7 of business in which they may engage;

8 (13) existing regulatory devices no longer work,
9 and the regulatory asymmetries that exist today are
10 inconsistent with competitive marketplaces; and

11 (14) oversight of the telecommunications indus-
12 try should be conducted from the perspective of the
13 Antitrust Laws by the Department of Justice and
14 from the regulatory perspective by the Commission
15 for interstate telecommunications services and the
16 States for intrastate telecommunications services.

17 **SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF**
18 **1934.**

19 (a) DEFINITIONS.—Section 3 of the Communications
20 Act of 1934 (47 U.S.C. 153) is amended by adding at
21 the end thereof the following new definitions:

22 “(hh) ‘Local exchange carrier’ means any person that
23 is engaged in the provision of telephone exchange service
24 or telephone exchange access service; such term does not
25 include a person insofar as such person is engaged in the

1 provision of a commercial mobile service under section
2 332(c), except to the extent that the Commission finds
3 that such service as provided by such person in a State
4 is a replacement for a substantial portion of the wireline
5 telephone exchange service within such State.

6 “(ii) ‘Telephone exchange access service’ means the
7 offering of telephone exchange services or facilities for the
8 purpose of the origination or termination of interexchange
9 telecommunications services to or from an exchange area.

10 “(jj) ‘Telecommunications service’ means the offering
11 for profit to the public or to such classes and eligible users
12 as to be effectively available to a substantial portion of
13 the public of—

14 “(1) telecommunications facilities that (A) are
15 owned or controlled by a provider of telephone ex-
16 change service or (B) interconnect with the network
17 of a provider of telephone exchange service; or

18 “(2) telecommunications by means of such tele-
19 communications facilities.

20 Such term does not include information services.

21 “(kk) ‘Bell operating company’ means any of the
22 companies listed in Appendix A of the Modification of
23 Final Judgment, and includes any successor or assign of
24 any such company, but does not include any affiliate of
25 any such company.

1 “(ll) ‘Modification of Final Judgment’ means the de-
2 cree entered August 24, 1982, in United States v. Western
3 Electric, Civil Action No. 82—0192 (United States Dis-
4 trict Court, District of Columbia).

5 “(mm) ‘Telecommunications’ means the trans-
6 mission, between or among points specified by the user,
7 of information of the user’s choosing, without change in
8 the form or content of the information as sent and re-
9 ceived, by means of electromagnetic transmission medium,
10 including all instrumentalities, facilities, apparatus, and
11 services (including the collection, storage, forwarding,
12 switching, and delivery of such information) essential to
13 such transmission; such term does not include cable or in-
14 formation services.”.

15 (b) AMENDMENT TO TITLE II.—Title II of the Com-
16 munications Act of 1934 (47 U.S.C. 201 et seq.) is
17 amended by adding at the end thereof the following new
18 sections:

19 **“SEC. 230. REMOVAL OF ENTRY BARRIERS.**

20 “Subject to the provisions of section 301 of this Act,
21 1 year after the date of enactment of this section, no State
22 or local statute or regulation, or other State or local legal
23 requirement, shall prohibit or have the effect of prohibit-
24 ing the ability of any entity to provide interstate or intra-
25 state telecommunications services. No State or local gov-

1 ernmental entity may unreasonably discriminate among
2 telecommunications carriers.

3 **“SEC. 231. INTERLATA TELECOMMUNICATIONS SERVICES.**

4 “(a) AUTHORITY.—Notwithstanding any other provi-
5 sion of law or any restriction or obligation imposed before
6 the date of enactment of this section pursuant to section
7 II(D) of the Modification of Final Judgment, a Bell oper-
8 ating company or affiliate may engage in the provision of
9 interLATA telecommunications services when the barriers
10 to entry to provide any interstate or intrastate tele-
11 communications services have been removed pursuant to
12 Section 230 or 1 year after the date of enactment of this
13 section, whichever is earlier.

14 “(b) DEFINITION.—As used in this section, the term
15 ‘LATA’ means the local access and transport areas as de-
16 fined in *United States v. Western Electric Co.*, 569 F.
17 Supp. 990 (United States District Court, District of Co-
18 lumbia) and subsequent judicial orders relating thereto.

19 **“SEC. 232. REGULATORY PARITY.**

20 “(a) CABLE SERVICE.—No cable operator shall pro-
21 vide telephone exchange service or telephone exchange ac-
22 cess service in the geographic area where it provides video
23 programming so long as the local exchange carrier for that
24 geographic area is prohibited from providing video pro-
25 gramming directly to subscribers.

1 “(b) COMPETITIVE SERVICES.—The Commission
 2 shall, within eighteen months after the enactment of this
 3 section, promulgate regulations that ensure that all pro-
 4 viders of competitive telecommunications services are sub-
 5 ject to equivalent regulation and notwithstanding any
 6 other provision of this Act, the Commission shall have au-
 7 thority to conform any aspect of its scheme of regulation
 8 in order to reflect a competitive telecommunications envi-
 9 ronment.

10 “(c) DEFINITION.—For the purposes of this section,
 11 the term ‘competitive telecommunications services’ means
 12 a substitutable service offered by an unaffiliated entity at
 13 comparable or better rates, terms, and conditions.”.

14 (c) AMENDMENT TO TITLE VI.—Section 613(b) of
 15 the Communications Act of 1934 (47 U.S.C. 533(b)) is
 16 amended to read as follows:

17 “(b) A local exchange carrier subject in whole or in
 18 part to title II of this Act may—

19 “(1) provide video programming directly to sub-
 20 scribers, either through its own facilities or through
 21 an affiliate owned, operated, or controlled by, or
 22 under common control with, the local exchange car-
 23 rier; and

24 “(2) provide channels of communication or pole
 25 line, conduit space, or other rental arrangements to

1 any entity which is directly or indirectly owned, op-
2 erated, or controlled by, or under common control
3 with the local exchange carrier, to be used for, or in
4 connection with, the provision of video programming
5 directly to subscribers.”.

6 **SEC. 4. JURISDICTION.**

7 Section 2 of the Communications Act of 1934 (47
8 U.S.C. 152) is amended by inserting in subsection (b)
9 “and sections 230, 231, and 232” immediately after “sec-
10 tions 223 through 227, inclusive”.

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